

Parental Bereavement Leave and Pay Consultation

Employment Relations Policy and Legislation 1
Department for the Economy
Adelaide House
39-49 Adelaide Street
Belfast
BT2 8FD

10 August 2020

Dear Sir/Madam

FSB Northern Ireland response to the Parental Bereavement Leave and Pay Consultation

Background to FSB

The Federation of Small Businesses is the UK's largest business organisation, with around 165,000 members in total, including around 6,000 in Northern Ireland, across all sectors of industry and business. Established over 40 years ago, we are a non-profit making and non-party political organisation that's led by our members, for our members. Our mission is to help smaller businesses achieve their ambitions.

As experts in business, we offer our members a wide range of vital business services, including advice, financial expertise, support and a powerful voice in government.

FSB lobbies decision makers to create a better business environment and welcomes this opportunity to respond to this consultation on parental bereavement leave and pay, on behalf of our members across Northern Ireland. We trust that you will find our comments helpful and that they will be taken into consideration.

Northern Ireland is a small business economy, with the highest concentration of SMEs in all the regions in the UK: 98% of all firms employ fewer than 20 people, while 95% employ fewer than ten. Northern Ireland SMEs provide 75% of all private sector jobs, and two-thirds of private sector turnover.

Most small businesses want to create a supportive working environment for their employees, and will want to act with compassion and support their staff with time to grieve when they lose a child. FSB welcomes the measures to provide a minimum expectation of the amount of leave for a bereaved parent.

Self-employed

FSB was disappointed that the UK Government's legislation on parental bereavement leave did not extend to self-employed people. When the coronavirus crisis struck it was recognised that not all people can be reached through PAYE-based schemes and a new Self-Employment Income Support Scheme was introduced to replicate support granted to PAYE employees. Other bereavement payments have also been extended to self-employed people, with the Bereavement Support Payment tied to Class 1 and Class 2 National Insurance contributions.

FSB contests that a similar recognition is needed for paid bereavement leave. A bereaved parent is no less bereaved because they are self-employed. Indeed, some parents may have deliberately chosen the flexibility of self-employment to enable them to care for a child with a long-term sickness or disability. Those parents should not be penalised. FSB would like to see the Northern Ireland Executive extend the compassion they have demonstrated for employees to those who are self-employed by extending this scheme.

Using the same methodology that the UK Government used in their impact assessment for the law in Britain suggests that there might be around 80-90 self-employed bereaved parents a year in Northern Ireland.¹ Even were there to be 100% take-up that would result in a cost of just £27,000 per annum.

Options for leave-taking

Small firms will want to show compassion to their staff and support them through a difficult time in their life. FSB wants to ensure that there is a sufficient flexibility for staff while providing as much certainty and minimal administration for employers.

Managing grief in the workplace can be extremely difficult for all employers, but this is particularly true for small business owners who operate in smaller teams and are often closer to their employees. Often in these situations a small business owner will not only have to manage the absence of a member of staff but will be doing so at a time when they are experiencing their own grief caused by the death of a child of a friend and colleague.

These matters will be more easily accommodated by large organisations, but it is manifestly more onerous and time-consuming for the smallest of firms who do not have HR departments. To enable small employers to plan their workforce and ensure that there is a reduced administrative burden we would recommend that the leave should be taken in either a single block of two weeks or in two separate one week blocks.

Notice

The death of a child can be unexpected and many parents will need time and space away from work to grieve and to make arrangements. If the leave is to be taken immediately after the death of the child FSB does not believe that employees should be required to give notice.

However, small businesses, due to their lower numbers of staff, can struggle to manage absences and need time to plan and manage demand. If a bereaved parent plans to take leave which is not in the immediate aftermath of the death of the child then we believe the parent should be required to give reasonable notice, to allow employers to make arrangements to cover workloads and manage their workforce.

Evidence requirements

Managing grief in the workplace, as we have highlighted, can be particularly challenging for small employers. It is obviously a much more challenging time for the parent. FSB wants to ensure that the burden of the process for providing evidence is minimal, with everyone operating in good faith.

¹ 170 deaths + 85 stillborn children (the average over the previous 5 years) = 255 bereavements. Even assuming that 1/3 of parents have separated and have new partners would result in 680 potentially bereaved parents, 81.6% of whom would be employed, of which 15% would be self-employed.

We would suggest, particularly in the circumstance of the unexpected death of a child, that an employee should not initially have to provide evidence. We believe that the process should mirror that for existing family leave where, if requested, an employee must give a declaration that they meet the eligibility requirements.

Qualification period

FSB recognises that the death of a child can be unexpected and, therefore, the right should be available to parents from day one of their employment and not linked to length of service. Some recently bereaved parents may have changed jobs in order to gain greater working flexibility to enable them both to work and care for a sick child. All parents facing the trauma of losing a child require support and compassion, not just those who have been in employment for 26 weeks.

Employment Law

FSB would welcome a review of the strategic vision for Employment Regulation in Northern Ireland. FSB surveys indicate that 26% of small businesses in Northern Ireland identify employment law as a barrier to business success.² If every SME employer were to add just one extra job, employment in Northern Ireland would rise by tens of thousands. We must reform our legislation in such a way as to remove the barriers that currently discourage and prevent those small businesses from taking on extra employees; FSB would welcome fresh engagement with the Department to that effect.

Please do not hesitate to contact us if you have any queries and we look forward to continued engagement with the Department as you progress with this policy.

Yours faithfully,

Tina McKenzie

FSB NI Policy Chair

² Ulster University, (2015), *The contribution of Small Businesses to Northern Ireland* (Belfast: Ulster University Business School)